

PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

REC'D 25 JUL 2005

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Applicant's or agent's file reference P016445WO JDV	FOR FURTHER ACTION		See Form PCT/IPEA/416
International application No. PCT/GB2004/001035	International filing date (day/month/year) 12.03.2004	Priority date (day/month/year) 17.03.2003	
International Patent Classification (IPC) or national classification and IPC H04Q7/22			
Applicant ORANGE SA et al.			

1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.

2. This REPORT consists of a total of 6 sheets, including this cover sheet.

3. This report is also accompanied by ANNEXES, comprising:

- sent to the applicant and to the International Bureau a total of sheets, as follows:
 - sheets of the description, claims and/or drawings which have been amended and are the basis of this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions).
 - sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box.
- (sent to the International Bureau only) a total of (indicate type and number of electronic carrier(s)), containing a sequence listing and/or tables related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).

4. This report contains indications relating to the following items:

- Box No. I Basis of the opinion
- Box No. II Priority
- Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- Box No. IV Lack of unity of invention
- Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- Box No. VI Certain documents cited
- Box No. VII Certain defects in the international application
- Box No. VIII Certain observations on the international application

Date of submission of the demand 28.01.2005	Date of completion of this report 22.07.2005
Name and mailing address of the international preliminary examining authority:  European Patent Office - Gitschner Str. 103 D-10958 Berlin Tel. +49 30 25901 - 0 Fax: +49 30 25901 - 840	Authorized Officer LOPEZ PEREZ M C Telephone No. +49 30 25901-496



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Box No. I Basis of the report

1. With regard to the **language**, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.
 - This report is based on translations from the original language into the following language, which is the language of a translation furnished for the purposes of:
 - international search (under Rules 12.3 and 23.1(b))
 - publication of the international application (under Rule 12.4)
 - international preliminary examination (under Rules 55.2 and/or 55.3)
2. With regard to the **elements*** of the international application, this report is based on (*replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report*):

Description, Pages

1-26 as originally filed

Claims, Numbers

1-27 as originally filed

Drawings, Sheets

1/17-17/17 as originally filed

- a sequence listing and/or any related table(s) - see Supplemental Box Relating to Sequence Listing

3. The amendments have resulted in the cancellation of:

- the description, pages
- the claims, Nos.
- the drawings, sheets/figs
- the sequence listing (*specify*):
- any table(s) related to sequence listing (*specify*):

4. This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).

- the description, pages
- the claims, Nos.
- the drawings, sheets/figs
- the sequence listing (*specify*):
- any table(s) related to sequence listing (*specify*):

* If item 4 applies, some or all of these sheets may be marked "superseded."

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Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Yes: Claims	
	No: Claims	1-27
Inventive step (IS)	Yes: Claims	
	No: Claims	1-27
Industrial applicability (IA)	Yes: Claims	1-27
	No: Claims	

2. Citations and explanations (Rule 70.7):

see separate sheet

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Re Item V

**Reasoned statement with regard to novelty, inventive step or industrial applicability;
citations and explanations supporting such statement**

1 Reference is made to the following documents:

D1: WO 02/098077 A (ERICSSON TELEFON AB L M) 5 December 2002 (2002-12-05)
D2: EP-A-1 096 742 (LUCENT TECHNOLOGIES INC) 2 May 2001 (2001-05-02)
D3: WO 01/76282 A (ERICSSON TELEFON AB L M) 11 October 2001 (2001-10-11)
D4: "Universal Mobile Telecommunication System (UMTS); UTRAN Iu Interface User Plane Protocols (3GPP TS 25.415 version 3.5.0 Release 1999)" ETSI TS 125 415 V3.5.0, XX, XX, December 2000 (2000-12), pages 1-57, XP002210774
D5: EP-A-1 443 784 (MITSUBISHI ELECTRIC CORP) 4 August 2004 (2004-08-04)

2 The present application does not meet the criteria of Article 6 PCT, because the subject-matter of claims 1,8,26,27 is not clear.

2.1 Although claims 1 and 26; and claims 8 and 27 have been drafted as separate independent claims, they appear to relate effectively to the same subject-matter and to differ from each other only with regard to the definition of the subject-matter for which protection is sought, or in respect of the terminology used for the features of that subject-matter since they do respectively refer to a telecommunications system (claims 1 and 26) and to a method for communicating internet packet data (claims 8 and 27). The aforementioned claims therefore lack conciseness. Moreover, lack of clarity of the claims as a whole arises, since the plurality of independent claims makes it difficult to determine the matter for which protection is sought, and places an undue burden on others trying to establish the extent of the protection.

2.2 In particular, a single independent claim in each category would have appeared appropriate, which independent claims could be followed by dependent claims covering features which are merely optional (Rule 6.4 PCT).

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2.3 Claims 26 and 27 do not meet the requirements of Article 6 PCT in that the matter for which protection is sought is not defined. These claims attempt to define the subject-matter in terms of direct references to the drawings. In this instance, such a formulation is not allowable because it appears possible to define the subject matter in more concrete terms.

3 The present application does not meet the criteria of Article 33(1) PCT, because the subject-matter of claims 1-27 is not new in the sense of Article 33(2) PCT.

3.1 Using the wording of claim 1, document D1 discloses (the references in parentheses applying to this document):

"A telecommunications system (See Fig. 7) for providing a facility for communicating internet packet data (page 1, line 25 - page 2, line 9) with a mobile communications user equipment (102), the internet packet data carrying payload data including a plurality of different data types (page 7, lines 14-26), the system comprising:

a gateway support node (110, GGSN) operable to provide an interface for communicating the data packets between the user equipment (102) and a packet data telecommunications network (112),

a service support node (110, SGSN) operable to communicate the data packets between the gateway support node (110, GGSN) and the mobile user equipment (102) using a radio network controller (104), the radio network controller being operable to provide a radio access bearer (page 8, lines 7-16) for communicating the data packets with the user equipment, wherein at least one of the gateway support node (110, GGSN) and the user equipment (102) are operable (Figs. 3 and 5)

to parse the payload data in each data packet to determine a number of the plurality of different data types and a number of data symbols in each of the different data types (page 7, lines 14-26),

to generate a radio access bearer sub-flow indicator (page 7, line 27 - page 8, line 6) providing an indication of the number of different types of data in the payload and the number of symbols in each different data type,

to form a transport frame for each data packet by combining the payload data for each data packet with the subflow indicator (page 8, lines 7-16), the transport frame being used to communicate each data packet between the

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gateway support node (110, GGSN) and the radio network controller (104) via the service support node (110, SGSN) and the data packets are communicated between the radio network controller (RNC) and the user equipment (102) by detecting the sub-flow indicator (page 8, lines 7-16), and in accordance with the sub-flow indicator

arranging for the data from each of the different data fields (page 8, lines 17-29) to be communicated via a different radio access bearer providing different quality of service parameters appropriate for the different data type".

The subject-matter of claim 1 is therefore not new (Article 33(2) PCT).

3.2 The additional features of dependent claims 2-7 are also known from D1. In particular:

- claim 2: page 8, lines 17-29;
- claim 3: page 9, lines 8-26;
- claims 4, 5: page 7, line 27 - page 8, line 6;
- claim 6: page 15, line 1 - page 17, line 7;
- claim 7: see Fig. 7

The subject-matter of claims 2-7 is therefore not new (Article 33(2) PCT).

3.3 Independent apparatus claims 14,19,21,22 and 26 have the same technical features as independent claim 1. Their subject-matter is, for the same reasons explained above, not new (Article 33(2) PCT). Also all their dependent claims (15-18 and 20) are anticipated by the cited prior art. The subject-matter of these dependent claims is therefore not new (Article 33(2) PCT).

3.4 Independent method claims 8,23,24,25 and 27 describe the method performed by independent apparatus claims 1,14,19,21,22 and 26. Their subject matter is, for the same reasons explained above, not new (Article 33(2) PCT). Also all their dependent claims (9-13) are anticipated by the cited prior art. The subject-matter of these dependent claims is therefore not new (Article 33(2) PCT).